

Response Due Date: June 15, 2009

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Counsel for Reliable Carriers, Inc.

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X		
In re	:	Chapter 11
	:	
GENERAL MOTORS CORP., <i>et al.</i> ,	:	Case No. 09-50026 (REG)
	:	
Debtors.	:	(Jointly Administered)
-----X		

**OBJECTION OF RELIABLE CARRIERS, INC. TO NOTICE OF (I) DEBTORS'
INTENT TO ASSUME AND ASSIGN CERTAIN EXECUTORY CONTRACTS,
UNEXPIRED LEASES OF PERSONAL PROPERTY,
AND UNEXPIRED LEASES OF NONRESIDENTIAL REAL PROPERTY
AND (II) CURE AMOUNTS RELATED THERETO**

Reliable Carriers, Inc., and certain of its affiliates and subsidiaries (collectively, Reliable Carriers), creditors and parties-in-interest in this case object, on a limited basis, ("Objection") to the Notice of (I) Debtors' Intent to Assume and Assign Certain Executory Contracts and Unexpired Leases and (II) Cure Amounts Related Thereto ("Assumption Notice") served upon by the above captioned debtors and debtors-in-possession (collectively, the "Debtors") pursuant to the Court's Bidding Procedures Order (Docket No. 274). In support of the Objection, Reliable Carriers states:

1. On June 1, 2009 the Debtors filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. The Debtors are presently managing their properties and operating

their businesses as debtors-in-possession, pursuant to sections 1107 and 1108 of the Bankruptcy Code.

2. On June 2, 2009, this Court entered an order (the “Bidding Procedures Order”) approving the Debtors’ bidding procedures, which includes procedures regarding Debtors’ assumption and assignment of executory contracts.

3. Pursuant to the Bidding Procedures Order, the Debtors delivered an Assumption Notice to Reliable Carriers dated June 5, 2009.

4. The Debtors are parties to a blanket executory contract with Reliable Carriers.

5. The Debtors have proposed assuming and assigning Reliable Carriers’ executory contract as an Assumable Executory Contract pursuant to the Bidding Procedures Order (the “Designated Contract”).

6. The Designated Contract encompasses work performed by both Reliable Carriers and its subsidiary company RCI Logistics, Inc. (individually, “RCI Logistics”)

7. Contained in the Assumption Notice is a username and password allowing Reliable Carriers to log onto the Debtors’ contract notice website. On the website, the Debtors identify \$1,051,102.59 as the amount allegedly owed to Reliable. This amount is substantially less than what is actually owed under the Designated Contract.

8. The website lists individual purchase orders from Reliable Carriers (including, RCI Logistics) as being included as an Assumable Executory Contract but fails to include purchase orders and amounts for all work performed pre-petition under the Designated Contract, including some work performed by RCI Logistics and uninvoiced work performed.

9. Reliable Carriers wishes to confirm that there are no alleged debits, credits, or claims subtracted from the stated Cure Amount or whether other orders, items or amounts which Reliable Carriers lists under other supplier codes are treated in this value.

10. Other Reliable Carriers related entities have not received any proposed Assumption Notice and they reserve all rights and remedies.

11. Reliable Carriers objects to the Assumption Notice on the basis that the Cure Amount identified by the Debtors therein is inaccurate. Reliable Carriers asserts the true Cure Amount to be at least \$1,944,220.11, as evidenced by the spreadsheet attached as **Exhibit A**.

12. Reliable Carriers also objects to the extent that the Debtors' Notice would allow payment of less than all pre-petition and post-petition obligations owed by Debtors to Reliable Carriers, as is required by Section 365 of the Bankruptcy Code. In re Burger Boys, 94 F.3d 755, 763 (2nd Cir. 1996).

13. "Section 365(b)(1) establishes a 'conjunctive tripartite test' for assuming an executory contract. The debtor must cure or provide adequate assurance that [the debtor] will cure any defaults, compensate or provide adequate assurance that [the debtor] will compensate the other party for any actual pecuniary loss resulting from the defaults, and provide adequate assurance of future performance. All three requirements must be met before the contract can be assumed." Aetna Casualty & Surety Co. v. Gamel, 45 B.R. 345, 348 (N.D.N.Y. 1984) (citing In re Luce Industries, Inc., 8 B.R. 100, 104 (Bankr. S.D.N.Y. 1980) *rev'd on other grds.*, 14 B.R. 529 (S.D.N.Y. 1981)). Reliable Carriers further objects to the extent Debtor's Notice would allow assumption of executory contracts without satisfying the requirements in Section 365(b)(1).

14. Because the legal and factual authority upon which Reliable Carriers relies upon are incorporated into this Objection, Reliable Carriers respectfully requests that the Court deem satisfied or, alternatively, waive any requirement of the filing of a separate memorandum of law contained in Local Bankruptcy Rule 9013-1(a).

15. Reliable Carriers reserves the right to amend this Objection to include additional facts or arguments as may be determined by further investigation and also to raise such other and further objections to any proposed assumption and assignment or Cure Amounts with respect to Reliable Carriers' Designated Contracts.

WHEREFORE, Reliable Carriers respectfully requests that the Court enter an order (a) sustaining this Objection in its entirety and denying the proposed assumption and assignment of Reliable Carrier's executory contract on the terms proposed by the Debtors, (b) determine the appropriate amounts due to Reliable carriers pursuant to Section 365 of the Bankruptcy Code, and (c) providing Reliable Carriers with such other and further relief as is appropriate.

Respectfully submitted,

KERR, RUSSELL AND WEBER, PLC

By: /s/ P. Warren Hunt

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Dated: June 12, 2009

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CERTIFICATE OF SERVICE

I hereby certify that on June 12, 2009, I electronically filed the foregoing Objection to the Notice of (I) Debtors' Intent to Assume and Assign Certain Executory Contracts and Unexpired Leases and (II) Cure Amounts Related Thereto, Exhibit A and this Certificate of Service with the Clerk of the Court using the ECF system which will send notification of such filing to all ECF participants. A copy of this document was also served on the following parties on June 12, 2009 via first class mail:

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/s/ P. Warren Hunt
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Dated: June 12, 2009